



## IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of:	)	Examiner: Meller, Michael V.
Jinhua AN, et al.	)	Art Unit: 1654
Application Serial No. 10/019,004	)	Confirmation No. 5123
Filed: April 22, 2002	)	Attorney's Docket No. 22001-0003
For: HEMATOPOIETIC ARABINOGLACTAN COMPOSITION	)	Customer No. 25213

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**EXPRESS MAIL LABEL NO. EL 976 543 085 US**

Date Mailed: NOVEMBER 5, 2003

### REQUEST FOR WITHDRAWAL AS ATTORNEY OR AGENT

**RECEIVED**

Mail Stop AF  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, Virginia 22313-1450

NOV 13 2003

TECH CENTER 1600/2900

Dear Sir:

The attorneys of Heller Ehrman White & McAuliffe, Customer No. 25213, hereby apply to withdraw as attorney or agent in the above identified patent application.

This request is submitted under 37 C.F.R. § 10.40 (c)(iv) and 37 C.F.R. § 10.40 (c) (vi).

The reasons for the request are failure of the assignee to provide instructions, failure of the assignee to respond to repeated requests for instructions or to communicate in any way the undersigned, and failure to pay for services previously rendered.

The undersigned have made repeated telephone calls, and sent messages by facsimile and by mail in a diligent attempt to obtain instructions from the assignee. Copies of letters and facsimiles sent on August 21, 2003; on September 24, 2003; and on October 23, 2003 accompany this Request for Withdrawal as Attorney or Agent.

The correspondence address IS affected by this withdrawal.

The assignee of this invention is Pharmagenesis, Inc., as evidenced by the assignment recorded at reel 011638 and frame 0523 on March 19, 2001 (for provisional 60/215,365, related to the present application).

Please send all further correspondence to the assignee:

Pharmagenesis, Inc.  
3183 Porter Drive  
Palo Alto, California 94304

(650) 813-1818 Telephone  
(650) 813-1828 Facsimile

Respectfully Submitted,

Dated: November 5, 2003

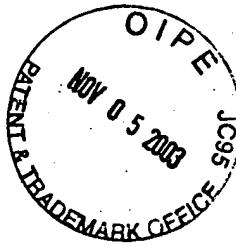
By:



James A. Fox (Reg. No. 88,455)

**HELLER EHRMAN WHITE & McAULIFFE LLP**  
275 Middlefield Road  
Menlo Park, California 94025  
Telephone: (650) 324-7000  
Facsimile: (650) 324-0638

SV 464730 v1  
11/5/03 9:59 AM (22001.0003)



August 21, 2003

John H. Musser, Ph.D.  
Vice President, Chemistry  
Pharmagensis, Inc.  
3183 Porter Drive  
Palo Alto, California 94304

James A. Fox, Ph.D.  
[jfox@hewm.com](mailto:jfox@hewm.com)  
(650) 324-6951  
Main (650) 324-7000  
Fax (650) 324-6654

Re: U.S. Patent Application Serial No. 10/019,004.  
Filed: April 22, 2002  
Title: *Hematopoietic Arabinogalactan Composition*  
Inventors: An, et al.  
Our Reference: 22001-0003

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TECH CENTER 1600/2900

Dear Dr. Musser:

Enclosed is a copy of a final Office Action rejecting all claims in the above-identified case. Derek Freyberg wrote you regarding this Office Action on July 1, 2003; this message is to remind you that a response is preferably due before August 26, 2003; if filed before September 26, 2003, no fees will be due. Since this is a Final Office Action, the claims must be allowed, appealed, or a continuation application filed before the final deadline of December 26, 2003. Please be aware that no response may be filed after December 26, 2003.

In this action, all pending claims were rejected: claims 21-28 were rejected as anticipated by prior art; claims 21-28 were also rejected as obvious in view of the same prior art references. As Dr. Freyberg discussed in his letter, one can counter these rejections by arguing that the cited prior art does not anticipate or make obvious the claims; in particular, one could point out that the cited references do not disclose a weight average molecular weight of at least 100 kDa.

We would be happy to review these materials, formulate arguments, and prepare a response to these rejections. However, we must receive advance payment for such work before any work may be commenced. It is estimated that preparation of this response would require about \$2,000.00.

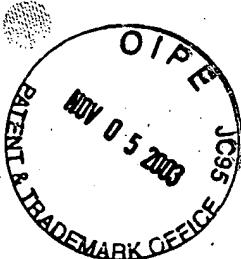
I look forward to your instructions regarding this matter.

Sincerely,

James A. Fox, Ph.D.

Enclosure

SV 450847 v1



September 24, 2003

Via Facsimile 650-813-1828

James A. F x, Ph.D.  
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Nicolas Druz  
President  
Pharmagenesis, Inc.  
3183 Porter Drive  
Palo Alto, California 94304

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NOV 1 3 2003

TECH CENTER 1600/2900

**Re: UPCOMING DEADLINES**

***Hematopoietic Arabinogalactan Composition***

**U.S. Patent Application Serial No. 10/019,004 - response to Final Office Action**

**Fees due after September 26, 2003**

**Chinese Patent Application No. 00811547.8 - response to Office Action**

**Instructions due October 10, 2003**

***Acid-Modified Hematopoietic Arabinogalactan Protein Composition***

**Entry into China deadline September 26, 2003 based on EPO**

Dear Mr. Druz:

We have sent letters and left telephone messages for Dr. John Musser in an attempt to obtain instructions with regard to the responses due by the above-indicated deadlines for these Pharmagenesis patent applications. Dr. Musser has not responded; with this FAX we request a response from you.

**Please contact us with your instructions** so that we may respond to these actions. We require instruction from you in order to respond. **FAILURE TO RESPOND TO THESE ACTIONS LISTED ABOVE COULD LEAD TO ABANDONMENT OF THESE APPLICATIONS.**

I look forward to your instructions regarding these matters.

Sincerely,

A handwritten signature in black ink, appearing to read "Jim Fox".

James A. Fox, Ph.D.

Jim Fox

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Email: [jfox@hewm.com](mailto:jfox@hewm.com)

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Heller Ehrman White & McAuliffe LLP 275 Middlefield Road Menlo Park, CA 94025-3506 [www.hewm.com](http://www.hewm.com)

San Francisco Silicon Valley Los Angeles San Diego Seattle Portland Anchorage New York Washington D.C. Madison, WI  
Hong Kong Singapore KongAffiliated Offices: Rome Paris Milan

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 \*\*\* TX REPORT \*\*\*  
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NOV 05 2003



TRANSMISSION OK

TX/RX NO	3969
CONNECTION TEL	2#22001#0001#16508131828
CONNECTION ID	
ST. TIME	10/23 18:52
USAGE T	02'39
PGS. SENT	7
RESULT	OK

# HellerEhrman

ATTORNEYS

October 23, 2003

**Via FAX to 650-813-1828 7 PAGES TOTAL  
 And Via Federal Express**

James A. Fox, Ph.D.  
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 (650) 324-6951  
 Main (650) 324-7000  
 Fax (650) 324-0638

Nicolas Druz  
 President  
 Pharmagenesis, Inc.  
 3183 Porter Drive  
 Palo Alto, California 94304

**Re: Patent Application DEADLINES  
 REQUEST FOR INSTRUCTIONS**

**RECEIVED**

NOV 1 3 2003

TECH CENTER 1600/2900

Dear Mr. Druz:

As you know, we have repeatedly tried to contact you and others at Pharmagenesis regarding upcoming deadlines affecting Pharmagenesis patent applications. The present message is being sent via facsimile and Federal Express in an attempt to obtain the instructions that are necessary to prevent the abandonment of the Pharmagenesis patent applications.

**PLEASE PROVIDE INSTRUCTIONS BEFORE OCTOBER 30, 2003**

**FAILURE TO PROVIDE INSTRUCTIONS WILL LEAD TO THE ABANDONMENT OF PHARMAGENESIS INTELLECTUAL PROPERTY AROUND THE WORLD.**

The most urgent actions include:

**Hematopoietic Arabinogalactan Composition**

**U.S. Application Serial N . 10/019,004**

**REQUIRES INSTRUCTIONS FOR IMMEDIATE ACTION**

**IT BECOMES ABANDONED AFTER DECEMBER 26, 2003**

**(as stated in our FAXes and letters of August 21, 2003 and September 24, 2003)**



September 24, 2003

Via Facsimile 650-813-1828

John H. Musser, Ph.D.  
Vice President, Chemistry  
Pharmagenesis, Inc.  
3183 Porter Drive  
Palo Alto, California 94304

James A. Fox, Ph.D.  
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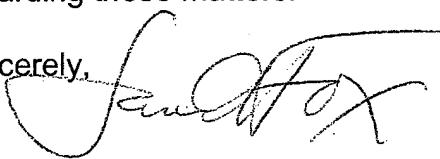
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Sincerely,

  
James A. Fox, Ph.D.

Jim Fox

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SV 457155 v1

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San Francisco Silicon Valley Los Angeles San Diego Seattle Portland Anchorage New York Washington D.C. Madison, WI  
Hong Kong Singapore KongAffiliated Offices: Rome Paris Milan